

OFFICE OF THE GENERAL COUNSEL

MEMORANDUM GC 93-16

November 24, 1993

To: All Employees, Office of the General Counsel
From: Jerry M. Hunter, General Counsel
Subject: Major Accomplishments of the Office of the
General Counsel Fiscal Years (1990-1993)

This memorandum provides an overview of the major accomplishments of the Office of the General Counsel during my term as General Counsel. As reflected in the overview, the staffs of the Office of the General Counsel have earned my deepest respect and admiration for their outstanding record of performance during these past 4 years. This is particularly so because notwithstanding unprecedented budgetary constraints, we continued to process our cases efficiently and effectively.

Quality Casehandling

One of the goals that I set at the beginning of my term was high quality casehandling. As a means toward achieving that goal, we devoted substantial resources to national training conferences for our professional and managerial staff in all areas of casehandling. In addition, we were able to provide to the Regional Offices a great deal of new and updated training tools such as manuals, video tapes and other training materials. In my view, this investment and emphasis on training has already produced substantial dividends for the Agency.

Settlement Of Unfair Labor Practice Cases

In the critical area of obtaining settlement agreements, an area where substantial training was provided, the Regions have excelled. During the past 4 years, the Regions have achieved settlement rates beginning in Fiscal Year 1990 through Fiscal Year 1993 of 91.5, 93.2, 94.3 and 92.1 percent. Thus, in each of the last 4 years the Regions have achieved a settlement rate in excess of 91 percent and have exceeded the established goal of 86 percent.

Included among the settlements and compliance resolutions were some of the most significant cases pending before the Agency. Swift Independent Corporation involved a settlement

of three and one half million dollars in backpay to 542 discriminatees. Colt Industries, Firearms Division involved \$13 million in backpay, reinstatement of approximately 700 former employees to their jobs and resolution of a 4 year labor dispute; Lehigh Portland Cement Co., resulted in \$5 million in backpay to 1,200 employees; Teledyne Industries ended an 11-month strike by over 700 members of the UAW, provided for offers of reinstatement to the strikers and an agreement by the Employer to bargain in good faith; Decker, Coal, involved a settlement in excess of \$10 million for 230 employees and offers of reinstatement as well as a new three and one-half year contract; D.C. Liquor Wholesalers involved settlements which totaled \$5.75 million in backpay; DAK Foods, Bluebird Food Products, Northern Foods and other related companies, resulted in \$3.5 million paid to 320 employees. In addition, major settlements were achieved in: Whitehall Laboratories, \$1.7 million and 548 employees; Reichhold Chemicals, Inc., \$1.45 million and approximately 225 employees; Central Cartage Co. \$5.5 million and 59 employees; Armco Steel Company, L.P., \$2.1 million and 325 employees; Cox Creek, \$400,000 and 75 employees; and Nabors Trailers, Inc. \$500,000 and 100 employees. The settlement in Pittston Coal resulted in an agreement between the Employers and the United Mine Workers of America where the Union agreed to an expansion of an outstanding civil contempt decree which the Agency had obtained in 1987. The United States Postal Service settlement between the USPS and the American Postal Workers Union resolved 66 cases dealing with Employee/Quality of Worklife Programs. Additionally, we are finalizing the terms of the previously announced settlement with Greyhound Lines, Inc. where backpay will range from \$17 to \$22 million based on the value of the Company's securities, and \$30 million in backpay in the National Football League case. These are impressive examples of our success in effectuating the purposes of the Act.

Indicative of the high quality performance in the settlement area is the record amount that the Regional Offices distributed in backpay to employees in Fiscal Year 1992. In that year alone, \$76.4 million was distributed; this represents the highest amount of backpay distributed in one year in the history of the Agency.

Litigation Results

Another area of high quality performance is the success that the Regions achieved in presenting cases in litigation before Administrative Law Judges and the Board. During the last 4 years, the Regions attained litigation success rates starting in Fiscal Year 1990 of 83, 85, 86 and 86 percent. This litigation success rate represents the best 4-year litigation record the General Counsel's staff has achieved in its history.

Representation Cases

The same effectiveness was also achieved in the representation case area. Thus, the national election agreement rate exceeded the goal of 80 percent in each of the past 4 years. The rates achieved were 85, 86.1, 84.4 and 85; they were the highest election agreement percentages ever attained during any consecutive 4-year period. Of even more significance is that each of these percentages exceeded the previous single year record of 84 percent which was set in 1984.

The Regions also continued their excellent record in the timeliness of election cases. Thus, in each of the past 4 years, the Regions attained the goals for the issuance of RD Decisions (45 median days), the conduct of elections (50 median days) and the issuance of objections and challenges reports or Supplemental Decisions (35 median days for non-hearing cases).

Training Conferences

During my term as General Counsel, we emphasized training programs for our Regional Office staffs to further quality case processing. In June 1990, we conducted a training conference for field examiners which was the first national training for field examiners since 1985. Subjects covered included discussions of settlement, investigative techniques, rules of evidence, credibility, and hearing officer training. The hearing officer training included video training of the participants.

In April 1992, we conducted The Trial Advocacy Institute which was the first national trial training conducted since 1987. Close to 260 field attorneys and instructors participated. The institute featured small instructor-intensive group workshops and videotaping of mock trials and pretrial preparation.

We also conducted two separate national training programs for newly hired employees. The first occurred in 1990 and involved close to 70 new employees and instructors and the second occurred in 1992 and involved 96 employees and instructors. The manuals of case instruction given to the participants continue to be widely used.

In 1992, we also conducted the first national compliance training since 1984. Approximately 78 participants attended including compliance supervisors and compliance officers as well as the management official in each Region who supervises the compliance function. The conference

covered such subjects as bankruptcy, successorship, alter ego and computation of backpay. Use of the computer in the compliance function was also emphasized.

In 1992, a supervisors training conference was held for all supervisors, compliance supervisors and resident officers who had not previously attended such national training. The agenda included topics such as management styles, labor relations, EEO, recruitment and the training of others.

Training Resources

In addition to training conducted on a national basis and the ongoing training which occurs in each Regional Office, we also distributed a significant number of new and updated training tools to the Regional staff. These materials included the following:

- **Training Monographs** - Beginning in May 1991, we issued a series of training monographs which are designed to provide a general introduction to a particular legal or procedural topic as a training tool for professionals. Thirteen monographs issued covering the following subjects:
 - Section 10(b) of the Act.
 - Solicitation/Distribution rules
 - Duty of fair representation
 - Introduction to jurisdiction and coverage of the NLRA
 - The duty to furnish information
 - Wright Line
 - Injunctive relief under Section 10(j) of the Act
 - Hiring halls
 - Procedural bars to the litigation of ULP cases
 - Backpay
 - Deferral of unfair practice charges
 - Section 8(b)(4)(B) of the Act
 - Successors and Alter Egos
- **Revised Training Outline for New Professionals (1991)**
The outline updated and expanded the existing outline which issued in 1971. The outline is designed to provide a framework for the orientation of new professionals.
- **Bankruptcy Video Tape issued (1991)** The tape consists of two sections: a narrative introduction to bankruptcy principles and a bankruptcy court scene applying them.
- **New Health Care Rules Video Tape (1991)** included a mock version of a health care hearing.

- **A Revised Pleading Manual issued (1991)** Aside from needed revisions, the goal was to make the manual less wordy, and to make it more "user friendly."
- **Compliance Training Manual (1992)** This manual contains information on bankruptcy and subpoenas, computers, escrow accounts and IRS information.
- **A Revised Compliance Manual (1993)** A revised compliance casehandling manual is at the printer and will issue shortly.
- **An Outline of Law and Procedure in Representation Cases(1993)** This manual had not been updated since 1974.
- **A Revised Guide for Hearing Officers in Representation Cases and Section 10(k) Hearings (1993)** is at the printers and will issue shortly. This guide had not been revised since 1975.
- **Two video training tapes-Protected/Concerted Activity and Deposition Training**-will be distributed shortly.

Multi-Regional Cases

The Office of the General Counsel has also been heavily involved with the coordination of an unprecedented number of multi-Regional cases such as Greyhound Lines, Inc., Beverly Enterprises, Beck and many other large and complex cases.

Major Technology Initiatives & Projects

During the past 4 years, automation became one of the Agency's top priorities. More strides were made in the automation area during this period than in the entire history of the Agency.

- **Computer Equipment** Sufficient PCs for all NLRB employees were acquired. Only one of every three employees had a PC when my term began. A significant number of laptop PCs were also acquired which will greatly aid the Regional office personnel in conducting investigations. Several hundred laser printers were also acquired. All new PCs are 486-level and Windows software ready. Remaining older (386) desktop and laptop PCs are scheduled for upgrade to be Windows ready. The System 80 mainframe computer was upgraded. The System 80 handles all historical case handling data.

- **Software** In short, almost every type of Agency software was changed or upgraded. The Agency moved to a Windows software standard. Its new word processing software is Word for Windows, replacing two very old word processing software programs. The Budget and Finance Branches use Lotus for Windows v. 4.01 for spreadsheet software. Regional compliance officers will be upgraded to Windows spreadsheet software during this year. The current, older, spreadsheet software being replaced is SuperCalc. Electronic mail (e-mail) software is used extensively for the first time and is being upgraded now to cc:Mail™ for Windows v.2.0. Harvard Graphics for Windows is being upgraded to version 2.0, also. The Agency's principal database software is Dataflex. Dataflex will be upgraded, also. A Windows query tool, WinQL, has been purchased. The Branch is evaluating Paradox for Windows to use in some applications.
- **Local Area Networks (LANs)** The Agency's Headquarters network is entirely new as a result of moving to the new building. Approximately 600 PCs are connected on this network. The Headquarters network has upgraded file servers running Novell software. The network is 10-BaseT with a fiberoptic backbone. New network management software is being installed. The new network operates efficiently. The old network failed regularly. Nine Regional and one Judges' network comprising ten connections out of twenty cabled locations were completed. This new Regional network is over three times the size of the former Regional network and is completely new and upgraded. Material to install the remaining Regional offices to this level is on order and will be installed this year. The long-range objective is to network each office in its entirety so that every staff person will have access.
- **Computer Communications**
 - Ongoing computer communications collect Regional obligation data, casehandling (CHIPS) data and connect attorneys and field examiners to bankruptcy databases, etc. Remote control software is utilized by ADP professionals for various support requirements.
 - At Headquarters (for the first time), a communications server comprising twenty-four telephone lines is being installed. This communication server will provide attorney access to Westlaw and Lexis and will meet other communication requirements such as connection to Internet, inter-agency and Headquarters to Regional e-mail, Regional and other non-Headquarters log-on to the Headquarters network (for research and to work from remote locations), etc. It replaces location-specific

communication thereby making available PC communication as an option to any user on the Headquarters network.

- **Applications**

- The Agency's finance and accounting system was completely replaced and key staff hired to bring accounting into full compliance with government requirements. In 1991, a new Regional Office Budgeting System (ROBS) was introduced to the Regions. This computer system provides the Regions with a current accounting of all Regional projected obligations, actual expenditures and available funds for each day of the fiscal year.
- A new automated payroll and personnel system was installed using the computer services of the National Finance Center.
- The Agency's Legal Research Branch, Division of Advice, was changed from an very old WANG system to a completely new and redesigned system. Legal research data will be available shortly on the Headquarters network for easy access by legal staff. Access to this system will be made available next to Regional offices and, later, possibly the public.
- Procurement office support software (PMIS) was upgraded.
- An optical disk information system is being created for the Contempt Branch, Division of Enforcement Litigation.
- Information Officer and docket desk software modules for regional office CHIPS are under development. A Headquarters Regional casehandling Executive Access System will provide information on CHIPS data to Washington-based managers. A thorough review of the entire area of CHIPS automation will be initiated this year.
- E-mail is now available to all Headquarters supervisors and key staff. Expansion to all Headquarters staff is underway. Testing of Regional to Headquarters e-mail is underway.
- An effort to automate Agency forms is being organized. Ultimately, this effort will save significant forms storage and distribution cost.
- **Board Bound Volumes** The Agency's production and printing of bound volumes of Board decisions was improved dramatically by moving to a completely new system and

tightly integrating the new system to the processes at the Government Printing Office.

- **HELP Desk** Established for the first time a small group of individuals to assist end-users to install, upgrade and trouble shoot equipment, respond to questions regarding Agency software, and to resolve other computer-related problems.
- **Training** Regional Compliance Officers received extensive training at a conference dedicated to enhancing their computer skills. Office Managers received similar training. Agency case tracking clerks received extensive specialized training. Training for the Agency's new Windows-based software was conducted. The training consisted of in-house classes, use of the software's tutorial, video training, and some outside classes. An NLRB specific training manual incorporating the best efforts by various Agency staff is well underway. Agency programmers received specialized training.

Financial Management Initiatives

As indicated earlier, the Agency's old, inadequate accounting system was replaced. This major effort was accomplished in five months. Such conversions ordinarily take a minimum of 18 months. This change represented the beginning of a much-needed cultural revolution in financial management at the Agency which entailed better integration of the budget and accounting functions, providing timely and accurate financial reports to program managers for the first time in the Agency's history and holding them accountable for monitoring their spending.

Personnel/Payroll Automated System Conversion

As aforementioned, in May 1991, the Agency converted from the Department of the Air Force's Automated Personnel System (PERMITS) and the Department of Treasury's Automated Payroll system (TPIS) to an integrated payroll/personnel system run by the National Finance Center of the Department of Agriculture. In the conversion process, the Agency corrected voluminous annual and sick leave records which had been inaccurate for 10 years or more.

Relocation of Headquarters Operation

The Agency's headquarters operation was relocated after 33 years in the same location. The new location is in a new, modern building with state-of-the-art electrical, heating and air conditioning systems, and equipped to handle the Agency's increasingly sophisticated computerization. The many new features of the building will allow the Headquarters staff to perform their work under more efficient and business-like conditions. This relocation would not have been possible if it had not been for the unselfish support and dedication of many individuals in the Office of the General Counsel and Division of Administration working countless hours.

Library and Records Management

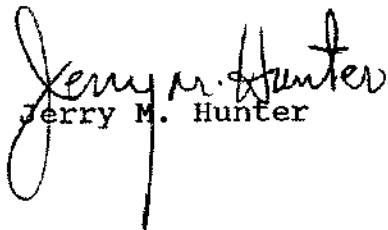
- Direct Westlaw searching by NLRB staff in the Headquarters' Library was started as a pilot project in May 1993. Formal training sessions, conducted by West Services, Inc., were provided for designated employees from various Headquarters offices.
- In 1989, the Case Records Unit began to use CHIPS data to maintain its index of official case files. This index has replaced the 3 x 5 card index for case files from 1989 to the present. Additionally, an automated index of all cases selected for permanent retention was developed in the Case Records Unit in conjunction with the Management and Information Systems Branch.
- Three new Privacy Act systems of records notices were published in the Federal Register: NLRB-18, Inspector General Investigative Files; NLRB-19, Telephone Call Detail Records; and NLRB-20, Agency Disciplinary Case Files.

Other Projects

- **Bound Volumes** The aforementioned conversion to a new automated system (Microcomp) in our Editorial Unit together with other changes in the work processes allowed the Agency to become current in its production of the bound volumes of the Board's decision while reducing the staff of the unit by half. The bound volume production had lagged far behind the issuance of Board decisions for many years.

- **Ethics Program** During the past 4 years, the Agency has developed a more proactive ethics program including significant training initiatives on the standards of conduct.

In conclusion, I wish to take this opportunity to express my sincere appreciation to all staff members for the tremendous assistance and support that I have enjoyed through my term as General Counsel. Obviously, these accomplishments would not have occurred without your continuing and dedicated efforts. What has for years made this Agency unique is the exceptional competency and unwavering commitment of its employees to public service in carrying out the principles of the Act. I wish to express to you my deepest gratitude for providing me with your much needed support and assistance in making the last 4 years a most rewarding time of my life.


Jerry M. Hunter

cc: NLRBU